

Message Text

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ORIGIN L-03

INFO OCT-01 EA-11 ISO-00 SCA-01 CIAE-00 DODE-00 PM-07 H-03

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SS-20 USIA-15 ACDA-19 IO-14 CU-04 VO-03 SR-02 ORM-03

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FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK PRIORITY

C O N F I D E N T I A L STATE 218192

E.O. 11652: GDS

TAGS: PINS, TH, US

SUBJECT: "POST GRADUATE GROUP" PROTEST AGAINST THANOM'S
PRESENCE IN U.S.

REF: BANGKOK 17242

SUMMARY: NOT POSSIBLE TO GIVE DEFINITIVE READING ON LEGAL
ASPECTS OF EXTRADITION IN ABSENCE OF FACTS AND REVIEW OF
EVIDENCE SUPPORTING AN EXTRADITION REQUEST. END SUMMARY.

1. WE CANNOT GIVE ANY GUIDANCE ON WHETHER FIELD MARSHAL
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THANON KITTIKACHORN WOULD BE EXTRADITED WITHOUT KNOWING
THE OFFENSE FOR WHICH HE WAS SOUGHT, REVIEWING THE FORMAL
EVIDENCE IN SUPPORT OF SUCH A REQUEST AND MAKING ANALYSIS

OF THE SITUATION LEADING TO SUCH A REQUEST. IN U.S. EXTRADITION PRACTICE UNDER THE TREATY WITH THAILAND, THAILAND MUST MAKE A REQUEST THROUGH DIPLOMATIC CHANNELS FOR AN OFFENSE LISTED IN THE 1924 TREATY SUPPORTED BY AFFIDAVITS AND OTHER EVIDENCE SUFFICIENT TO PERSUADE A U.S. COURT THAT THERE IS PROBABLE CAUSE TO BELIEVE THE ACCUSED COMMITTED SUCH AN OFFENSE. THE DEPARTMENT LEGAL OFFICE WOULD CONDUCT AN INITIAL REVIEW OF THE EVIDENCE AND THE REQUIREMENTS OF THE TREATY TO SEE THAT ALL TREATY REQUIREMENTS WERE COMPLIED WITH. IN ADDITION, THE EMBASSY'S ASSESSMENT WOULD BE REQUESTED AS TO WHETHER THE OFFENSE INVOLVED IS A POLITICAL ONE OR THE EXTRADITION REQUEST WAS

DESIGNED TO PERMIT THE ACCUSED'S RETURN FOR POLITICAL PERSECUTION. IF THE LEGAL OFFICE IS SATISFIED ON BOTH COUNTS THE DOCUMENTS ARE SUBMITTED TO THE DEPARTMENT OF JUSTICE, WHICH WOULD REPRESENT THAILAND IN THE EXTRADITION PROCEEDING, FOR THEIR REVIEW, AND IF THE JUSTICE DEPARTMENT IS SATISFIED THE APPROPRIATE U.S. ATTORNEY WOULD BE GIVEN THE CASE TO PURSUE IN THE U.S. FEDERAL COURTS. IF THESE ADMINISTRATIVE REVIEWS ARE FOLLOWED BY A SUCCESSFUL COURT PROCEEDING, THE CASE WOULD BE CERTIFIED TO THE SECRETARY OF STATE FOR A FINAL DETERMINATION OF EXTRADITION AND HE, IF SATISFIED THAT THE TREATY REQUIREMENTS HAD BEEN MET, WOULD BE OBLIGED TO EXTRADITE THE ACCUSED. IF THE COURTS REFUSED TO FIND THE ACCUSED EXTRADITABLE THAT WOULD BE THE END OF THE MATTER.

2. IN VIEW OF THE PROCESS OUTLINED ABOVE, THE INFORMATION CONTAINED IN REFTEL IS INSUFFICIENT EVEN TO DETERMINE IF AN EXTRADITABLE OFFENSE IS INVOLVED. WE COULD GIVE NO POSITIVE INDICATION WITHOUT A REVIEW OF THE ACTUAL EVIDENCE TO SUPPORT AN EXTRADITION REQUEST. THERE HAVE BEEN CASES, HOWEVER, WHERE FORMER HIGH GOVERNMENT OFFICIALS HAVE BEEN EXTRADITED BY THE U.S. FOR OFFENSES WHICH WERE CRIMINAL, SUCH AS MISUSE OF PUBLIC FUNDS, AND THE ACCUSED WAS UNABLE TO SHOW THAT HE WAS SOUGHT FOR CONFIDENTIAL

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POLITICAL REASONS RATHER THAN CRIMINAL PROSECUTION FOR THAT OFFENSE.

3. THUS AT THIS POINT ABOUT ALL WE CAN SAY IS THAT THE FIELD MARSHAL COULD BE EXTRADITED IF THE REQUIREMENTS OF THE TREATY WERE MET. RUSH

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